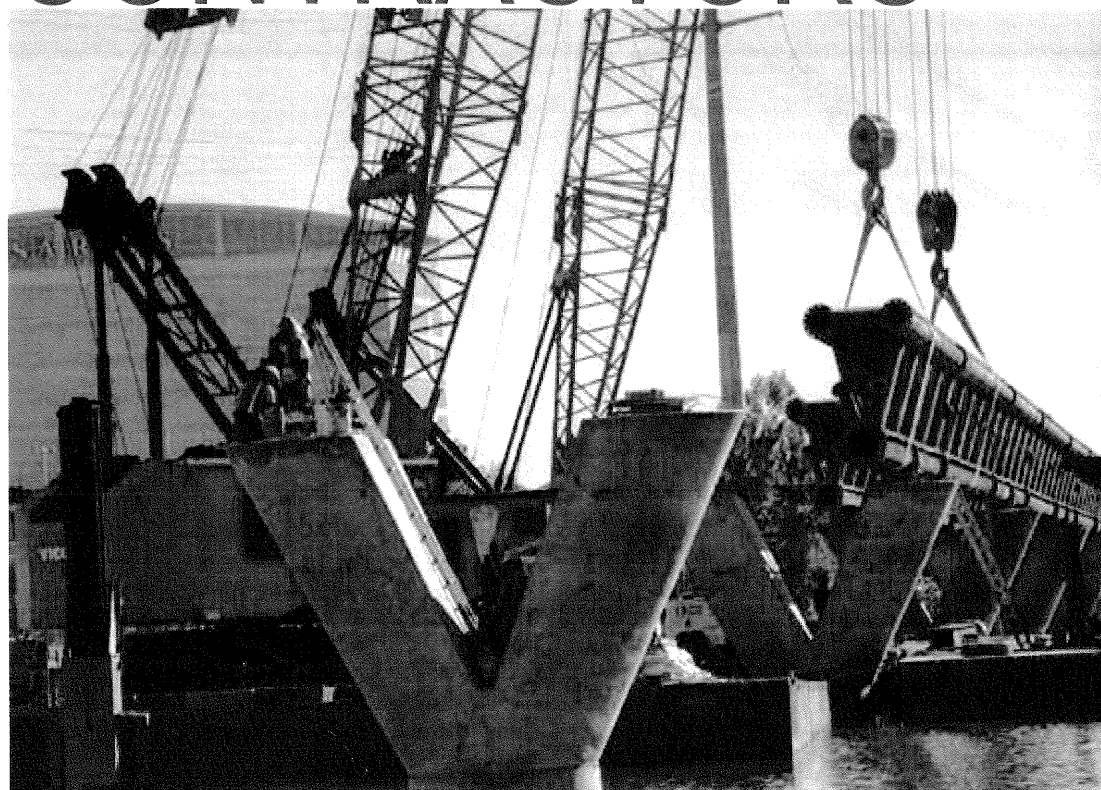
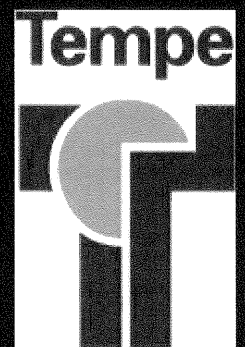




INSTRUCTIONS FOR CONTRACTORS



**Prevailing
Wage
Requirements
For
Federally
Assisted
Construction
Projects**



City of Tempe
Engineering Division
Contract Administration
31 East 5th Street
Tempe, AZ 85281
Phone (480) 350-8500
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Introduction

The City of Tempe's Capital Improvement Program is a plan for capital expenditures needed to develop public infrastructure. Capital Improvement construction projects that are financed in whole or in part with Federal funds are subject to Federal Labor Standards. The regulations that apply to the construction, alteration, and/or repair of public buildings and/or public works are referred to as the "Davis-Bacon and Related Acts" (DBRA). It is the Engineering Division's responsibility to ensure Contractor compliance so as not to jeopardize the City's continued eligibility to receive Federal assistance.

The following information has been prepared to assist Contractors and Subcontractors with Federal Labor Standards. Careful attention will result in fewer problems for your company with respect to Davis-Bacon requirements. You are encouraged to call the Contract Administration Section of the Engineering Division if you have any questions.

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INSTRUCTIONS FOR CONTRACTORS Prevailing Wage Requirements For Federally Assisted Construction Projects



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CHAPTER 1

Regulations & Responsibilities

The following paragraphs summarize the Labor Standards as they would apply to City of Tempe projects:

A. SUMMARY OF FEDERAL LABOR STANDARDS

1. The Davis-Bacon Act (40 U.S.C. §276a-§276a-7)

The Davis-Bacon Act (DBA) requires the payment of prevailing wage rates (determined by the U.S. Department of Labor) to all laborers and mechanics employed on construction projects in excess of \$2,000 that are funded in whole or in part by the Federal Government. Construction includes alteration and/or repair, including painting and decorating of public buildings or public works.

2. The Related Acts (40 U.S.C. §276c; 40 U.S.C. §327-§332)

The Related Acts are Federal statutes which authorize Federal assistance in the form of contributions, grants, loans, insurance, or guarantees for certain construction projects. Included in the language of these statutes are references to the Davis-Bacon provisions and the requirement that laborers and mechanics be paid prevailing wage rates.

The *Related Acts* are often referred to as the Davis-Bacon and Related Acts or DBRA.

3. The Contract Work Hours and Safety Standards Act (40 U.S.C. §327-§332)

The Contract Work Hours and Safety Standards Act (CWHSSA) requires time and one-half pay for overtime hours (over 40 in any workweek). The CWHSSA applies to both direct Federal contracts and to indirect Federally-assisted contracts exceeding \$100,000, except where the assistance is solely in the nature of a loan guarantee or insurance. CWHSSA violations carry a liquidated damage penalty (\$10/day, per violation). Intentional violations of the CWHSSA are considered a Federal criminal misdemeanor.

4. The Copeland “Anti-Kickback” Act (40 U.S.C. §276c)

The Copeland Act makes it a crime for anyone to require a laborer or mechanic (employed on a Federal or Federally-assisted project) to kickback any part of their wages. The Copeland Act also requires every employer (Contractors and Subcontractors) to submit weekly payroll reports.

5. The Fair Labor Standards Act (29 U.S.C. §214c)

The Fair Labor Standards Act (FLSA) prescribes Federal minimum wage rates and overtime requirements. These requirements generally apply to any labor

performed and may be preempted by other Federal standards such as the DBRA prevailing wage requirements and CWHSSA overtime provisions. Only the U.S. Department of Labor (DOL) has the authority to administer and enforce the FLSA. Our office will refer any FLSA violations found on City projects to the DOL.

6. The Miller Act (40 U.S.C. §3131 to §3134)

The Miller Act provides that Federal contracts in excess of \$100,000 for construction, alteration and/or repair of any public building or public works must require a surety bond for the protection of all persons supplying labor and material. Under the Miller Act the Contractor must furnish the Federal Government with the following:

1. A performance bond in an amount that the City regards as adequate for the protection of the Federal Government; and
2. A separate payment bond for the protection of suppliers of labor and materials. The amount of the payment bond shall be equal to the total amount payable by the terms of the contract unless the City makes a written determination that a payment bond in that amount is impractical, in which case the amount of the payment bond shall be set by the City. The amount of the payment bond shall not be less than the amount of the performance bond.

The surety company issuing these bonds must be listed as a qualified surety on the Treasury List, published each year by the U.S. Department of the Treasury.

The Federal Acquisition Regulation (FAR) shall provide alternatives to payment bonds as payment protections for suppliers of labor and materials for contracts that are more than \$25,000 and not more than \$100,000. In such circumstances the City shall:

1. select, from among the payment protections provided for in the Federal Acquisition Regulation, one or more payment protections which the awarded Contractor is to submit to the Federal Government for the protection of suppliers of labor and materials for the contract; and
2. specify the selected payment protections in the solicitation of offers for the contract.

The Miller Act payment bond covers Subcontractors and suppliers of material who have direct contracts with the prime Contractor. These are called first-tier claimants. Subcontractors and material suppliers who have contracts with a Subcontractor, but not those who have contracts with a supplier are also covered and are called second-tier claimants. Anyone further down the contract chain is

considered too remote and cannot assert a claim against a Miller Act payment bond posted by the Contractor.

The DOL exercises no functions under the Miller Act, but the information in this section is pertinent since the Act provides protection to laborers and mechanics. In order to protect their rights under the Miller Act, employees of the prime Contractor or first-tier Subcontractors must give written notice by registered mail to the prime Contractor of failure to receive proper wages. The underpaid worker must mail the notice within 90 days of the date of performance of the last labor.

Suits to recover under the Miller Act must be commenced within one year of the date on which the last of the labor was performed. The suit must be brought in the name of the United States, for the use of the person suing, in the United States District Court for any district in which the contract was to be performed and executed. The suit is brought and prosecuted by the employee's own attorney. Although the Miller Act does not apply to Federally-assisted projects (i.e. the "Related Acts"), many states and grant programs require surety bonds with substantially similar requirements.

This notice clause shall be inserted by Contractors and Subcontractors in all contracts and shall contain information pertaining to the surety that provided the payment bond under the prime contract:

- (a) *The prime contract is subject to the Miller Act, (40 U.S.C. §3131, et al), under which the prime contractor has obtained a payment bond. This payment bond may provide certain unpaid employees, suppliers, and subcontractors a right to sue the bonding surety under the Miller Act for amounts owned for work performed and materials delivery under the prime contract.*
- (b) *Persons believing that they have legal remedies under the Miller Act should consult their legal advisor regarding the proper steps to take to obtain these remedies. This notice clause does not provide any party any rights against the Federal Government, or create any relationship, contractual or otherwise, between the Federal Government and any private party.*
- (c) *The surety which has provided the payment bond under the prime contract is:*

(Name)

(Street Address)

(City, State, Zip Code)

(Contact & Tel. No.)

B. CODE OF FEDERAL REGULATIONS (C.F.R.)

The DOL has published rules and instructions concerning Davis-Bacon and other labor laws in the Code of Federal Regulations (C.F.R.). These regulations can be found in **Title 29 C.F.R. Parts 1, 3, 5, 6 and 7**. **Part 1** explains how the DOL establishes and publishes DBA wage determinations and provides instructions how to use the determinations. **Part 3** explains the Copeland “Anti-Kickback” Act requirements for payroll deductions and the submission of weekly certified payroll reports. **Part 5** explains the Labor Standards provisions relating to Davis-Bacon wage rates and the responsibilities of Contractors to administer and enforce the provisions. **Part 6** explains the administrative proceedings used to enforce Federal Labor Standards in construction and service contracts. **Part 7** sets parameters for practice before the Wage Appeals Board (renamed Administrative Review Board). These regulations are used as the basis for administering and enforcing the laws.

C. CONSTRUCTION CONTRACT PROVISIONS

Construction contracts funded in whole or in part by the Federal Government must contain Labor Standards clauses and a Davis-Bacon wage decision. These documents are normally bound into the contract specifications.

1. **Labor Standards Clauses**: The Labor Standards clauses describe the responsibilities of the Contractor regarding Davis-Bacon wages. The Labor Standards clauses also provide the City with remedies in the event of violations, including withholding payments due to the Contractor to ensure the payment of employee wages or liquidated damages. The City of Tempe has standard forms containing Labor Standards clauses.
2. **Davis-Bacon Wage Decision**: The Davis-Bacon wage decision is a listing of various construction work classifications, such as Carpenter, Plumber, Electrician, etc. and the minimum wage rates (and fringe benefits, where applicable) that employees performing work in those classifications must be paid.

D. PRIME CONTRACTOR RESPONSIBILITIES

The prime Contractor is responsible ensuring full compliance of all Contractors, Subcontractors and any lower-tier Subcontractors with the Labor Standards provisions applicable to the project. Because of the contractual relationship between a prime Contractor and his/her Subcontractors, questions involving Subcontractors should always be channeled through the prime Contractor.

E. CONTRACT ADMINISTRATION SECTION RESPONSIBILITIES

The Contract Administration Section of the Engineering Division is responsible for the proper administration and enforcement of the Federal Labor Standards provisions. The Contract Administration Section will provide Labor Standards pre-

construction advice and support, including providing the proper Davis-Bacon wage determination and ensuring that the wage determination and labor clauses are incorporated into the contract. The Contract Administration Section also monitors Labor Standards by conducting interviews with construction workers at the job site, reviewing payroll reports and overseeing any enforcement actions that may be required.

The DOL also has a role in monitoring Davis-Bacon administration and enforcement. A DOL investigator or other DOL representative may visit Davis-Bacon construction sites to interview employees or review payroll information.

Any questions that arise regarding compliance with the applicable Labor Standards should go through the Contract Administration Section of the Engineering Division.

CHAPTER 2

How to Comply with Labor Standards

A. THE WAGE DECISION

Davis-Bacon Labor Standards specify the wage requirements for carpenters, electricians, plumbers, roofers, laborers and other construction work classifications that may be needed for a project. The Davis-Bacon wage decision that applies to the project contains a schedule of work classifications and wage rates that must be followed.

The wage decision is included in the contract specifications along with the Labor Standards clauses. *(See Chapter 1C – Construction Contract Provisions)*

1. **Work classifications and wage rates:** A Davis-Bacon wage decision is a listing of different work classifications and the minimum wage rates that must be paid to employees performing work in those classifications. It is recommended that Contractors verify the wage rates that need to be paid and that all work classifications needed are contained in the wage decision. Some wage decisions cover several counties and/or types of construction work (for example, residential and commercial work) and can be lengthy and difficult to read. Contractors should contact the Contract Administration Section for questions interpreting the wage decision or finding the work classifications needed.
2. **Posting the wage decision:** The prime Contractor is responsible for posting a copy of the wage decision and a copy of the DOL poster “*Notice to Employees*” at the work site in a place that is easily accessible to all employees and where the postings will not be destroyed by wind or rain, etc. Copies of the “*Notice to Employees*” poster are also available in Spanish and will be provided at the Preconstruction Conference.

B. ADDITIONAL “TRADE” CLASSIFICATIONS AND WAGE RATES

If a work classification is needed to perform work on the project but does not appear in the wage decision, it may be necessary to request an additional classification and wage rate. The Contractor must first identify the classification needed and recommend a wage rate for the DOL to approve. There are a few rules about requesting additional classifications; these rules can be found in the DOL regulations, Part 5, and in the labor clauses in the contract. The specific requirements have been summarized as follows:

1. **Additional classification rules:** Additional classifications and wage rates can be approved if:

- a. The requested classification is used by other construction Contractors in the area of the project. The area is usually defined as the county where the project is located.
 - b. The work that will be performed by the requested classification is not performed by another classification already included in the wage decision. (In other words, if there already is an electrician classification and wage rate in the wage decision you cannot request another electrician classification and rate.)
 - c. The proposed wage rate for the requested classification “fits” with the other wage rates already in the wage decision. (For example, the wage rate proposed for a trade classification such as electrician must be at least as much as the lowest wage rate for other trade classifications already contained in the wage decision.) In addition, the employees to be included in the added classification (if it is known who the workers are/will be), or the workers’ representatives (if appropriate), must agree with the proposed wage rate.
2. **Making the request:** A request for additional classification and wage rate must be made through our office on a Standard Form 1444, “*Request for Authorization of Additional Classification and Rate*” (the Contract Administration Section will provide this form upon request). A request by a Subcontractor should go through the prime Contractor. The work classification that is missing must be identified and a wage rate (usually the rate the Contractor is already paying to the employee performing the work) must be recommended. The request should include a description of the work to be performed.
 3. **Review by the Contract Administration Section:** The Contract Administration Section will review the requested classification and wage rate to determine whether the request meets the above requirements. If additional information or clarification is needed, staff will contact the prime Contractor for more information. The request will then be forwarded to the DOL for review.
 4. **DOL decision:** The DOL will respond in writing to the Contract Administration Section regarding the additional classification and wage rate request. The Contract Administration Section will notify the prime Contractor in writing of the DOL’s decision. If the DOL approves the request, the prime Contractor must post the approval notice on the job site with the wage decision.

If the DOL does not approve the request, the Contractor will be advised the appropriate classification and wage rate to use for the work in question. Contractors will also receive instructions how to ask for DOL reconsideration.

C. CERTIFIED PAYROLL REPORTS

Contractors must submit weekly certified payroll reports beginning with the first week the Contractor performs work on the project until all work has been completed. Chapter 3 of this packet explains the requirements for the completion and retention of certified payroll reports as set forth by The Copeland “Anti-Kickback” Act.

D. DAVIS-BACON DEFINITIONS

1. **Laborer and mechanic:** “Laborers” and “mechanics” refer to anyone performing construction work on a project, including trade journeymen (carpenters, plumbers, sheet metal workers, etc.), apprentices, trainees, and, for CWHSSA purposes, watchmen and guards. “Laborers” and “mechanics” are the two groups of workers that must be paid no less than Davis-Bacon wage rates.
 - a. **Company owners:** Company owners who perform manual labor on the project must be paid Davis-Bacon wage rates for all hours worked.
 - b. **Relatives:** There are no exceptions from coverage on the basis of family relationship for relatives who perform work as a laborer or mechanic.
 - c. **Salaried:** Salaried employees who perform work on DBRA projects and non-covered projects in the same workweek must be paid Davis-Bacon wages for the time spent on the DBRA project.
 - d. **Working foremen:** Foremen or supervisors that regularly spend more than 20% of their time performing construction work are considered “laborers” and “mechanics” for Labor Standards purposes for the time spent performing construction work.
 - e. **Exclusions:** People whose duties are primarily administrative, executive or clerical are not laborers or mechanics. Examples include superintendents, office staff, timekeepers, messengers, etc.
2. **Employee:** Every person who performs the work of a laborer or mechanic is “employed” regardless of any contractual relationship which may be alleged to exist between a Contractor or Subcontractor and such person. This means that even if there is a contract between a Contractor and a worker, the Contractor must make sure the worker is paid at least as much as the wage rate in the wage decision for the classification of work performed.

For information about working Subcontractors, you may request a copy of Labor Relations Letter LR-96-01: Labor standards compliance requirements for self-employed laborers and mechanics (a.k.a. working Subcontractors).

3. **Apprentices and trainees:** The only employees who can be paid less than the wage rate in the wage decision are “apprentices” and “trainees” registered in approved apprenticeship or training programs, including *Step-Up* apprenticeship programs designed for Davis-Bacon construction work. Approved programs are those which have been registered with the DOL, Bureau of Apprenticeship and Training (BAT) or with a BAT-recognized State Apprenticeship Agency (SAC). Apprentices and trainees are paid wage rates in accordance with the wage schedule in the approved program.

Note: State and/or municipal apprenticeship agencies have no authority over trainee programs.

Most often, the apprentice/trainee wage rate is expressed as a series of percentages tied to the amount of time spent in the program. For example: 0-6 months = 65%; 6 months – 1 year = 70%. The percentage is applied to the journeyman’s wage rate. On Davis-Bacon projects the percentage must be applied to the journeyman’s wage rate on the applicable wage decision for that trade.

- a. **Probationary apprentice:** A “probationary apprentice” can be paid as an apprentice (less than the rate in the wage decision) if the BAT or SAC has certified that the person is eligible for probationary employment as an apprentice.
- b. **Pre-apprentice:** A “pre-apprentice”, someone who is not registered in a program and who hasn’t been BAT- or SAC-certified for probationary apprenticeship, is not considered an “apprentice” and must be paid the full journeyman’s rate provided in the wage decision for the classification of work they perform.
- c. **Ratio of apprentices and trainees to journeymen:** The maximum number of apprentices/trainees cannot exceed the ratio of apprentices/trainees to journeymen allowed in the approved program.
 - (1) Ratios are applied in terms of whole number increments for the journeyman and not in terms of “fraction thereof”, unless a different standard is specified in the approved plan. The allowable ratio can vary from plan to plan.
 - (2) “Bootstrapping” is not allowed for ratio purposes. For example, Contractors cannot count incorrectly classified workers, who were subsequently reclassified, as meeting the journeyman ratio.

(3) A working foreman, supervisor, or owner may be counted as a journeyman for ratio purposes provided the person spends the majority of their time at the work site.

4. **Prevailing wages and wage rates:** Prevailing wage rates are the wage rates listed in the wage decision for the project. The wage decision will list a minimum hourly rate of pay for each work classification. Some wage decisions include fringe benefits, which are usually listed as an hourly fringe rate. If the wage decision includes a fringe benefit rate for a classification, the fringe benefit rate must be added to the basic hourly rate unless bona-fide fringe benefits are provided for employees.

a. **Piece-work:** Some employees are hired on a piece-work basis, that is, the employee's earnings are determined by a factor of work produced. Employers may calculate weekly earnings based upon piece rates provided the weekly earnings are sufficient to satisfy the wage rate requirements based upon actual hours worked, including any overtime. Accurate time records must be maintained for any piece-work employees. If the weekly piece rate earnings are not sufficient, the Contractor must recalculate weekly earnings based upon the actual hours worked and the rate in the wage decision for the work classifications involved.

Note: The total hourly wage rate paid to any laborer or mechanic (basic wage or basic wage plus fringe benefits) must equal or exceed the total wage rate (basic wage or basic wage plus fringe benefits) in the wage decision for the trade. If the value of the fringe benefits provided is less than the fringe benefit rate in the wage decision, the balance of the wage decision fringe benefit rate must be added to the basic rate paid to the employee. For example, if the wage decision requires \$10/hour basic rate plus \$5/hour fringe benefits, the Contractor must pay no less than the total (\$15/hour) for the basic rate *or* basic rate plus any fringe benefit provided.

The Contractor cannot arbitrarily reduce the employee's regular hourly pay rate to offset the higher rate required under the Davis-Bacon project.

5. **Fringe Benefits:** Fringe benefits include health insurance, retirement, life insurance, vacation and some contributions to training funds. Fringe benefits **do not** include employer payments or contributions required by other Federal, State or local laws, such as the employer's contribution to Social Security or some disability insurance payments.

6. **Work Site:** The "work site" is the location where the Davis-Bacon wage rates apply. Usually, this means the boundaries of the project. "Work site" may

also include adjacent or virtually adjacent property used by a Contractor or Subcontractor in the construction of the project, like a fabrication site.

7. **Overtime:** Overtime hours are defined as all hours worked in excess of 40 hours in any workweek. Overtime hours must be paid at no less than one and one-half times the regular rate of basic pay plus the straight-time rate of any required fringe benefits.
8. **Deductions:** Payroll deductions are allowed as permitted by the DOL Regulations 29 CFR Part 3. These regulations prohibit the employer from requiring employees to “kick-back” any of their earnings. Allowable deductions include employee obligations for income taxes, Social Security payments, insurance premiums, retirement, savings accounts, and any other legally permissible deduction authorized by the employee. Deductions may also be made for payments on judgments and other financial obligations legally imposed against the employee. (See *Chapter 5 for Authorized Deductions.*)
9. **Proper designation of trade:** The Contractor must select a work classification in the wage decision for each employee based on the actual type of work he/she performs. Each employee must be paid no less than the hourly wage rate in the wage decision for the classification, regardless of their level of skill. In other words, if someone is performing carpentry work on the project, they must be paid no less than the rate in the wage decision for carpenters, even if the employee is not considered to be fully trained as a carpenter. The only people who can be paid less than the rate for their trade are apprentices and trainees registered in approved programs.
 - a. **Split-classification:** If employees perform work in more than one classification, they may receive the wage rates specified for each classification only if accurate time records are maintained that show the amount of time spent in each classification of work. If accurate time records are not maintained, these employees must receive the **highest** wage rate of all the classifications of work performed.
10. **Guards and watchmen:** Employees who are solely responsible for protecting the work site are not considered “laborers” or “mechanics” for DBRA purposes. However, if the employee actually performs physical or manual work on the construction site in addition to or in connection with protection work, he must be paid the appropriate wage rate for those hours.

11. **Survey crews:** Where surveying is performed immediately prior to and during actual construction, or in direct support of construction crews, such activity is covered by DBRA.

The determination as to whether certain members of survey crews are laborers or mechanics depends on the actual work performed. As a general rule, instrumentmen or transitmen, rodmen, chainmen, party chief, etc., are not considered laborers or mechanics. A crew person who primarily does manual work is a laborer and is covered for the time involved doing such manual labor.

12. **Flaggers and traffic directors:** The duties of flaggers have been determined to be manual and physical in nature. Flaggers typically work on or around heavy or highway construction projects as a part of the construction crew. Their work is integrally related and a necessary incident to other construction activities at the site.

Employees of traffic service companies that operate as Subcontractors on Davis-Bacon projects to set up and service traffic control devices are generally covered by the DBRA. Traffic service companies that lease equipment to the prime Contractor and perform only incidental functions at the work site in connection with delivery of the equipment are regarded as material suppliers whose employees would not be subject to Davis-Bacon wages. The exception would be where an employee spends a substantial amount of time (20% or more) in the workweek on the covered site.

13. **Owner-operators of trucks:** Davis-Bacon wages do not apply to owner-operators of trucks. However, proof of ownership must be verified. Laborers who work for or with the owner-operator are covered by the Davis Bacon regulations.

CHAPTER 3

General Instructions

A. ACTIVITIES PRIOR TO CONSTRUCTION

1. **Labor Compliance Preconstruction Conference:** A Labor Compliance Preconstruction Conference, separate from the Project Manager's Preconstruction meeting, must be held after contract award and prior to the start of construction. Minimum attendance shall be a corporate officer who is authorized to execute and sign documents and a payroll representative for each Contractor working on the project. One of the primary purposes of the preconstruction conference is to discuss requirements for Labor Standards compliance with all Contractors and Subcontractors and address questions and concerns before construction begins.
2. **Information & Forms to Subcontractors:** The prime Contractor is responsible for providing all Subcontractors with the information and forms that are necessary for this project. An original copy of all **required** forms will be provided to the prime Contractor and may be duplicated as necessary for each Contractor working on the project.

B. FORMS REQUIRED PRIOR TO THE START OF CONSTRUCTION

1. **Fringe Benefits or Union Bargaining Agreement:** These forms are used to identify how the payment of bona-fide fringe benefits will be made on behalf of the employees. The form requests plan and employee information, contribution amounts and frequency so that the Contract Administration Section can ensure that the total amount of required wages are being paid to employees and verify that fringe benefits are being paid to a third party approved by the U.S. Department of Labor. Staff will periodically request copies of the fringe benefit plan, monthly statements showing employee names and Social Security Numbers, hours worked, and contribution amounts.

Contractors who make payments to union sponsored plans should complete the Union Bargaining Agreement form.

Contractors who do not pay for fringe benefits on behalf of employees should state this on the form and submit it with the other required forms. If the contract wage decision includes a fringe benefit amount for the employee and the amount is not paid into a plan, the amount must be paid directly to the employee.

2. **List of Subcontractors and Construction Schedule:** The prime Contractor is required to submit a list of sub and lower-tier Contractors who will be working on

the project and a construction schedule. This information is used to facilitate on-site visits and payroll reviews and must be updated as the project progresses.

3. **Transportation of Materials Statement** (if applicable): The court decision called the "Midway Decision" (1991), excludes the payment of prevailing wages for the hauling of materials **only** when materials are being hauled "to" or "from" a commercial (non-dedicated) source. If materials are being hauled "to" or "from" a dedicated facility, around the project site or to another Davis-Bacon project, then the operators (e.g. truck drivers, laborers) are subject to Davis-Bacon wages.

The Transportation of Materials Statement must be completed by the prime Contractor and should clearly state who will provide materials and where all excavated materials will be taken. This document must be submitted prior to construction.

4. **Payroll Report Form WH-347** and **Statement of Compliance Form WH-348**: These forms may be reproduced for Contractor's use as needed, or a computerized format may be used as long as it contains all of the information included on forms WH-347 and WH-348. (See *Chapter 4*)
5. **Truck Owner-Operators**: Truck owner-operator forms must be completed for owner-operators of trucks who are independent Contractors. (See *Chapter 2 - Owner-operators of trucks*)
6. **Wage Deduction Authorization**: The wage deduction authorization form includes all the information needed for an employee to authorize a voluntary deduction from their wages. Government required deductions such as taxes, Social Security and Medicare do not have to be listed. Court ordered withholdings must be documented on this form or a copy of the court order may be submitted. All other amounts deducted from employees pay must be listed and authorized by the employee prior to the deduction. (See *Chapter 5 for Authorized Deductions*.)

Sample copies of these forms are included as Attachments 1-6. Additional copies may be requested from the Contract Administration of the Engineering Division.

C. ACTIVITIES DURING CONSTRUCTION

1. **Postings**: The prime Contractor is required to post the following information on a bulletin board located at the work site. The forms must be easily accessible to all employees during construction. If the forms are lost or unreadable, the prime Contractor must replace them immediately.
 - a. **Wage Decision** (all pages contained in the contract for the project)
 - b. **"NOTICE TO EMPLOYEES"** poster (WH-1321)

2. **Contractor requirements:**

All Contractors are required to do the following:

- a. Notify the Contract Administration Section of the actual construction start date.
- b. Pay all employees weekly.
- c. Maintain basic payroll records related to the project during the course of construction. Retain payroll records for three years after construction is completed. These records must be made available for inspection if requested by the City of Tempe staff and/or United States Government representatives.
- d. Submit weekly payrolls to the Contract Administration Section within seven calendar days from the employees' pay date. Payrolls and other documentary evidence of compliance must be sent to:

City of Tempe
Engineering Division
Contract Administration Section
31 East 5th Street, Garden Level
Tempe, Arizona 85281

The City's contract is with the prime Contractor. The prime Contractor is responsible for the compliance of all sub and lower-tier contractors on the project. **All sub and lower-tiered Contractors are to submit their paperwork through the prime Contractor.**

The prime Contractor should closely examine all payroll reports and forms prior to submitting to the Contract Administration Section.

D. GENERAL COMPLIANCE INFORMATION

Any punch list items or warranty work which involves the work of laborers and mechanics are subject to DBRA.

All Federal language contained in the prime Contractor's contract must be included in all subcontracts negotiated for the completion of this project.

At times it may be necessary to request additional information, such as monthly payments for fringe benefits, signed copies of paychecks, miscellaneous payroll records, or other such items which may help determine compliance.

Employee restitution claims can be made for up to three years after acceptance of the project.

This packet of information is intended as a guideline to assist Contractors to comply with Federal Labor Standards, but does not supersede the contract provisions.

CHAPTER 4

Completing Payroll Reports: Requirements & Instructions

A. CERTIFIED PAYROLL REPORTS

The submission of weekly certified payroll reports is required. The weekly payrolls are called “certified” because each payroll is signed and must contain language certifying that the information is true and correct. The payroll certification language can be found on the reverse side of the WH-347 form. A sample copy of the DOL’s WH-347, “Payroll” will be provided to the prime Contractor. This form may be reproduced as needed. It is not required to use Payroll Form WH-347; other types of payrolls are permitted, such as computerized formats, as long as they contain all of the information on the WH-347. If another type of payroll format is used, the certification or identical language from the back of the WH-347 (Statement of Compliance form WH-348) must be attached.

1. **Payroll review and submission:** Before submitting payroll reports the prime Contractor should review each Subcontractor’s payroll reports for compliance. The prime Contractor is responsible for the full compliance of all Subcontractors and will be held accountable for any wage restitution and/or liquidated damages that may be assessed for overtime violations. All payroll reports must be submitted to the Contract Administration Section through the prime Contractor.

By accurately reviewing Subcontractor payroll submissions, misunderstandings can be detected early thereby preventing costly underpayments and financial loss.

2. **Payroll retention:** All Contractors (including Subcontractors) must keep a complete set of their own payrolls and other basic records such as time cards, for at least 3 years after the project is completed. The prime Contractor must keep a complete set of all of the payrolls for every Contractor (including Subcontractors) for at least 3 years after completion of the project.
3. **Payroll inspection:** In addition to submitting payrolls to the Contract Administration Section, all Contractors must make their own copy of the payrolls available for review or copying by any authorized representative from the funding agency or the DOL.

B. COMPLETING PAYROLL REPORTS

1. **Project and Contractor/Subcontractor information:** Each payroll must include the Contractor or Subcontractor’s name and address, the City of Tempe project name and number (as it appears in the contract), and the week ending (pay period) date.

2. **Payroll report number:** Payroll reports need to be submitted weekly beginning with the first week the Contractor performs work on the project until all work has been completed. Payrolls should be numbered subsequently beginning with #1. The last payroll to be submitted for the project by each Contractor should be clearly marked "Final".
 - a. **"No work" payrolls:** "No work" payrolls need to be submitted whenever there is a temporary break in work on the project. However, if a Contractor knows that no work will be performed for an extended period of time, a note may be submitted notifying the Contract Administration Section of the break in work and approximate return date. If a note is submitted, "no work" payrolls are not required.
3. **Employee information:** The first payroll on which an employee appears must contain the employee's name, address and Social Security Number. Subsequent payrolls do not require the address and Social Security Number unless there is a change in this information.
4. **Work Classification:** Each employee must be classified in accordance with the wage decision based on the type of work they actually perform.
 - a. **Group types:** If the classification has more than one wage rate in the wage decision, indicate which group applies (i.e. Power Equipment Operator, Group 3; Laborer, Group 5, etc.).
 - b. **Company owners:** Company owners who perform manual labor on the project must show all hours worked, hourly rate of pay that meets minimum wage requirements as stated in the wage decision, and the gross amount earned on the project.
 - c. **Apprentices or trainees:** The first payroll on which an apprentice or trainee appears must be accompanied with a copy of that apprentice's or trainee's registration in a registered or approved program. A copy of the portions of the registered or approved program pertaining to the wage rates and ratios must also be included. Employees without a registration must be paid at the journeyman rate.
 - d. **Split classifications:** For employees in split classifications, list the employees once for each classification, distributing the hours of work accordingly, and reflecting the rate of pay and gross earnings for each classification. Deductions and net pay may be based upon the total gross amount earned for all classifications.

Time records may be required for employees who perform work in more than one classification during the workweek.

- e. **Owner-operators of trucks:** Owner-operators of trucks who are independent Contractors need to show the notation “owner-operator” but do not need to list hours worked or rate paid. Proof of ownership must be verified for owner-operators of trucks. Truck owner-operators will need to submit a “Truck Owner-Operator” form along with the first payroll report.

This requirement does not pertain to owner-operators of other equipment such as bulldozers, scrapers, backhoes, cranes, drilling rigs, welding machines, etc.

5. **Hours worked:** The payroll should show only the regular and overtime hours worked on the DBRA project. The total daily and weekly hours for each employee must be shown. If an employee performs work at job sites other than the project for which the payroll is prepared, those “other job” hours **should not** be reported on the payroll.
6. **Rate of pay:** The payroll should show the basic hourly rate of pay for each employee working on the project. If the wage decision includes a fringe benefit and the Contractor **does not** participate in an approved fringe benefit program, the fringe benefit rate must be **added** to the basic hourly rate of pay. The payroll must also include the overtime rate if overtime hours were worked.
- a. **Piece-work:** For any piece-work employees, the Contractor must compute an effective hourly rate each week for each employee based upon the employee’s piece-work earnings. To compute the effective hourly rate, divide the piece-work earnings by the total number of hours worked, including consideration for any overtime hours. The effective hourly rate must be reflected on the certified payroll and the hourly rate may not be less than the wage rate (including fringe benefits, if any) in the wage decision for the classification of work performed. It does not matter that the effective hourly rate changes from week-to-week, only that the effective rate is no less than the rate in the wage decision for the classification of work performed.

The overtime rate is computed at one and one-half times the basic rate of pay plus any fringe benefits. For example, if the wage decision requires \$10/hour basic plus \$5/hour fringe benefits, the overtime rate would be $(\$10 \times 1\frac{1}{2}) + \$5 = \$20/\text{hour}$.

7. **Gross wages earned:** The payroll must reflect the total amount of wages earned for work performed on the project. For employees with work hours and earnings on other projects, the payroll must indicate gross wages for the DBRA project over gross earnings all projects (for example, \$425.40/\$764.95). Deductions and net pay are based on the “all projects” earnings.

8. **Deductions:** The payroll must reflect the amounts of any deductions from the gross earnings. "Other" deductions should be identified (e.g. Savings Account or Loan Repayment). Any voluntary deduction (that is not required by law or by an order of a proper authority) must be authorized in writing by the employee in accordance with the provisions of the Copeland Act Regulations, 29 C.F.R., Part 3. (See *Chapter 5 for Authorized Deductions*)

A Deduction Authorization form signed by the employee should accompany the first payroll on which the "other" deduction appears. Only one employee authorization is needed for recurring (e.g. weekly) "other" deductions.

9. **Net wages:** The payroll must reflect the net amount of wages paid as they appear on the employee's pay stub.

C. STATEMENT OF COMPLIANCE

The Statement of Compliance is the payroll certification. It is located on the reverse side of a standard payroll form WH-347. A weekly Statement of Compliance form must accompany each payroll report.

1. **Identifying Information:** Section 1 of the Statement of Compliance form must be updated weekly to reflect the correct pay period commencing and ending dates for each workweek. Additionally, space has been provided to list all authorized deductions.
- a. **Section 4:** Section 4 requires a check in (a) or (b) if the wage decision contains a fringe benefit. Checking 4(a) indicates that fringe benefits to approved plans or programs are being paid; and 4(b) indicates that any required fringe benefit amounts are being paid directly to the employee by adding the fringe benefit rate to the basic hourly rate of pay. If a portion of the required fringe benefit is being paid to approved programs, and the balance directly to the employee, the situation must be explained in box 4(c) EXCEPTIONS.
- b. **Signature:** The payroll must be signed with an **original ink** signature by a principal of the firm (owner or officer such as president, Treasurer or Payroll Administrator), or by an authorized agent (a person authorized by a principal as a designated appointee). The signatures will be verified as they appear on the notarized Labor Standards Certification form. (See *Chapter 3B(1) - Forms Required Before the Start of Construction*)

Only one Statement of Compliance is required for each Contractor's weekly payroll no matter how many pages are needed to report the employee data.

CHAPTER 5

Authorized Deductions

Deductions made under the circumstances described below are allowable:

- A. TAXES** – Any deduction made in compliance with the requirements of Federal, State, or local law, such as Federal or State withholding income taxes and Federal Social Security taxes.
- B. REPAYMENT** – Any deduction of sums previously paid to the employee as a bona fide prepayment of wages when such prepayment is made without discount or interest. A “bona fide prepayment of wages” is considered to have been made only when cash or its equivalent has been advanced to the person employed in such manner as to give him complete freedom of disposition of the advanced funds.
- C. COURT ORDERED** – Any deduction of amounts required by court process (attachment of wages) to be paid to another, unless the deduction is in favor of the Contractor, Subcontractor, or any affiliated person, or when collusion or collaboration exists.
- D. INSURANCE PLAN, ETC.** – Any deduction consisting of a contribution on behalf of the employee to funds established by the employer or representative of employees, or both, for the purpose of providing either from principle or income, or both, medical or hospital care, pensions or annuities on retirement, death benefits, compensation for injuries, illness, accidents, sickness, or disability, or for insurance to provide any of the foregoing, or unemployment benefits, vacation pay, savings accounts, or similar payments for the benefit of employees, their families and dependents provided however, that the following standards are met:
 - (1) The deduction is not otherwise prohibited by law;
 - (2) The deduction is either:
 - (a) voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for the obtaining of or for the continuation of employment, or
 - (b) provided for in a bona fide collective bargaining agreement between the contractor or subcontractor and representatives of its employees;
 - (3) No profit or other benefit is otherwise obtained, directly or indirectly, by the Contractor or Subcontractor or any affiliated person in the form of commission, dividend, or otherwise; and

(4) The deduction serves the convenience and interest of the employee.

- E. LOANS** – Any deduction requested by the employee to enable him to repay loans to credit unions or to purchase shares in credit unions organized and operated in accordance with Federal and State credit union statutes.
- F. UNION DUES** – Any deductions to pay regular union initiation fees and membership dues, not including fines or special assessments. A collective bargaining agreement between the Contractor, Subcontractor and representatives of its employees must provide for such deductions and the deductions may not be otherwise prohibited by law.
- G. ROOM & BOARD** – Any deduction not more than for the “reasonable cost” of board, lodging, or other facilities meeting the requirements of section 3(m) of the Fair Labor Standards Act of 1938, as amended, and part 531 of this title. When such a deduction is made the additional records required under section 516.25(a) of this title shall be kept.
- H. SAFETY EQUIPMENT** – Any deduction for the cost of safety equipment of nominal value purchased by the employee as his own property for his personal protection in his work, such as safety shoes, safety glasses, safety gloves, and hard hats, if such equipment is not required by law to be furnished by the Contractor, if such deduction does not violate of the Fair Labor Standards Act or prohibited by other law, if the cost on which the deduction is based does not exceed the actual cost to the Contractor where the equipment is purchased from him and does not include any direct or indirect monetary return to the Contractor where the equipment is purchased from a third person, and if the deduction is either:
 - (1) voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for the obtaining of employment or its continuance; or
 - (2) provided for in a bona fide collective bargaining agreement between the Contractor or Subcontractor and representatives of its employees.

Any deductions, with the exception of taxes and court ordered deductions, must serve the convenience and interest of the employee and not be a condition of employment.

CHAPTER 6

Payroll Reviews and Corrections

A. COMPLIANCE REVIEWS

Representatives from the Contract Administration Section or other inspectors may visit the work site and interview employees regarding their work on the project. In addition, the Contract Administration Section will review payrolls and related submissions and compare the interview information to the payroll records to ensure compliance with Labor Standards requirements. Contractors will be notified of any discrepancies or errors and given instructions to correct the problems.

1. **On-site interviews:** All Contractors and Subcontractors must make their employees available for interviews at the work site with Contract Administration Section staff, DOL representatives or other agency representatives. The interviews are **CONFIDENTIAL** and should be conducted during working hours, not lunches or breaks. The employee will be asked about the kind of work they perform, their rate of pay, and authorized payroll deductions. Every effort will be made to ensure that these interviews cause as little disruption as possible to the on-going work.
2. **Project payroll reviews:** The Contract Administration Section will compare the information on the interview forms to the corresponding payrolls to ensure that payrolls correctly reflect the employees' days worked, work classification and rate of pay. The Contract Administration Section will also review the payroll submissions to confirm that the payrolls are complete and signed; that employees are paid no less than the wage rate for the work classification shown; that apprentice and trainee certifications have been submitted (where applicable); and that employee authorizations for other deductions have been submitted (where applicable).

B. TYPICAL PAYROLL ERRORS AND REQUIRED CORRECTIONS

The following paragraphs describe common payroll errors and the corrective steps to take:

1. **Inadequate payroll information:** If an alternate payroll (such as a computer payroll) does not contain all of the information that would be on the optional form WH-347, the Contractor will be asked to resubmit the payrolls on an acceptable form.
2. **Missing addresses and Social Security Numbers:** If the first payroll on which an employee appears does not contain the employee's address and/or Social Security Number, the Contractor will be asked to supply the missing information. A short note providing the information is all that is needed.

3. **Incomplete payrolls**: If the information on the payroll is incomplete (i.e., work classifications or rates of pay are missing), the Contractor will be asked to submit an amended payroll with the correct information.
 4. **Classifications**: If the payrolls show work classifications that do not appear in the wage decision, the Contractor will be asked to reclassify the employees in accordance with the wage decision or the Contractor may need to request an **additional classification and wage rate** (See Chapter 2B - Additional "Trade" Classifications and Wage Rates). If reclassification results in underpayment (i.e., the wage rate on the payroll is less than the rate required for the new classification), the Contractor will be asked to pay **wage restitution** to all affected reclassified employees. (See Chapter 6C - Restitution for Underpayment of Wages.)
 5. **Wage rates**: If the wage rates on the payroll are less than the wage rates in the wage decision for the work classification reported, the Contractor will be asked to pay wage restitution to all affected employees.
 6. **Apprentices and trainees**: If a copy of the employee's registration or approved program ratio and wage schedule is not submitted with the first payroll on which an apprentice or trainee appears, the Contractor will be asked to submit a copy of each apprentice's or trainee's registration and/or the approved program ratio and wage schedule. If the ratio of apprentices or trainees to journeymen on the payroll is greater than the ratio in the approved program, the Contractor will be asked to pay wage restitution to any excess apprentices or trainees. Also, any apprentice or trainee that is **not** registered in an approved program must receive the journeyman's wage rate for the classification of work performed.
 7. **Overtime**: If the employee did not receive at least time and one-half for any overtime hours worked on the project, the following will occur:
 - a. If the project is subject to **CWHSSA** overtime requirements, the Contractor will be asked to pay wage restitution for all **overtime** hours worked on the project (overtime hours worked at other projects are not subject to CWHSSA). The employer may also be liable to the United States for liquidated damages computed at \$10 per day per violation;
- Or,
- b. If the project is not subject to CWHSSA, the Contractor will be notified of the possible **FLSA** overtime violations. Also, the Contract Administration Section may refer the violations to the DOL for further review.
8. **Computations**: If the payroll computations (hours worked times rate of pay) or extensions (deductions, net pay) show frequent errors, the Contractor will be

asked to submit amended payrolls. Wage restitution may be required if such errors caused underpayments.

9. **Deductions**: If there are any “other” deductions that are not identified, or if employee authorization is not provided, or if there is any unusual deduction activity, the Contractor will be asked to identify the deductions, provide employee authorization or explain unusual deductions, as necessary.
10. **Fringe benefits**: If the wage decision contains fringe benefits but the payroll does not indicate how fringe benefits were paid (neither 4(a) nor 4(b) is marked on the payroll form), the Contractor may be asked to submit amended payrolls and will be required to pay wage restitution if underpayments occurred. However, if the basic hourly rates for the employees are at least as much as the total wage rate in the wage decision (basic hourly rate plus the fringe benefit rate), no correction will be necessary.
11. **Signature**: If the payroll Statement of Compliance is not signed in ink or is missing, the Contractor will be asked to submit a signed Statement of Compliance for each payroll affected.
12. **On-site interview comparisons**: If the comparison of on-site interviews to payroll records indicates any discrepancies (for example, the employee does not appear on the payroll for the date of the interview), the Contractor will be asked to submit an amended payroll report.

C. RESTITUTION FOR UNDERPAYMENT OF WAGES

Where underpayments of wages have occurred, the Contractor will be required to pay wage restitution to the affected employees. Wage restitution must be paid promptly in the full amounts due, less permissible and authorized deductions.

1. **Notification to the prime Contractor**: The Contract Administration Section will notify the prime Contractor in writing of any underpayments found during payroll or other reviews. The notice will describe the underpayments and provide instructions for computing and documenting the restitution to be paid. The prime Contractor is allowed 30 days to correct the underpayments. If the employer is a Subcontractor, the Subcontractor will usually make the computations and restitution payments and furnish the required documentation through the prime Contractor.
2. **Computing wage restitution**: Wage restitution is simply the difference between the wage rate paid to each affected employee and the wage rate required in the wage decision. The difference in the two wage rates is called the ***adjustment rate***. The adjustment rate times the number of hours involved equals the gross amount of restitution due.

3. **Correction payrolls (CPR):** The Contractor will be required to report the restitution paid on a correction certified payroll. The correction payroll will reflect the period of time for which restitution is due (for example, Payrolls #1 through #6; or a beginning date and ending date). The correction payroll will list each employee to whom restitution is due, the employee's work classification; the total number of work hours involved; the adjustment wage rate (the difference between the required wage rate and the wage rate paid); the gross amount of restitution due; deductions; and the net amount to be paid. A signed Statement of Compliance form must be attached to the correction payroll.
4. **Restitution confirmation:** Restitution confirmation is required to document the adjustment rate for employees who were incorrectly paid. The underpayment may result from an unlisted employee, an incorrect classification, an incorrect/incomplete rate or a mathematical error in the calculation of the payroll. A sample copy of this form is included as Attachment 7.
5. **Employee signature:** Each employee who has received restitution signs a "*Restitution Confirmation*" form as evidence of their receipt of the payment.
6. **Review of correction CPR:** The Contract Administration Section will review the correction payroll and "*Restitution Confirmation*" form to ensure that full restitution was paid. The prime Contractor shall be notified in writing of any discrepancies and will be required to make additional payments and provide a supplemental correction payroll within 30 days, if needed.
7. **Unfound workers:** Sometimes wage restitution cannot be paid to an affected employee because the employee has moved and/or cannot be located. In these situations, at the end of the project the prime Contractor will be required to provide a cashier's check (made out to the "*employee name*" and/or the "*City of Tempe*") for an amount equal to the total amount of restitution that could not be paid because the employee could not be located. The Contract Administration Section will continue to attempt to locate the unfound employees for 3 years after completion of the project. After 3 years, any amount remaining in the account for unfound workers will be credited and/or forwarded to the funding agency.

Table of Acronyms

BAT	-	Bureau of Apprenticeship and Training
CPR	-	Certified Payroll Report
CWHSSA	-	Contract Work Hours and Safety Standards Act
DBA	-	Davis-Bacon Act
DBRA	-	Davis-Bacon and Related Acts
DOL	-	Department of Labor
FHWA	-	Federal Highway Administration
FLSA	-	Fair Labor Standards Act
LCA	-	Local Contracting Agency
OT	-	Overtime
S/T	-	Straight-time
SAC	-	State Apprenticeship Council/Agency

FRINGE BENEFITS INFORMATION
(IF APPLICABLE)

This form must be completed for each non-union fringe benefit plan the contractor participates in on behalf of their employees performing work on a federally assisted construction project.

Plan Name _____ Plan Number _____

Plan Type _____ Effective Dates _____ Through _____

Plan Administrator

Name _____ Phone Number _____

Address _____ City/State _____

Plan Trustee/Custodian

Name _____ Phone Number _____

Address _____ City/State _____

Employee Name/ Trade Classification	Employer's Hourly Contribution
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

Provide attachment if additional space is needed.

**A COMPLETE COPY OF THE PLAN ALONG WITH CURRENT EMPLOYEE
BREAKDOWN AND PROOF OF PAYMENT MAY BE REQUESTED AT ANY TIME.**

City of Tempe
Engineering Division
Contract Administration
31 East 5th Street
Tempe, AZ 85281
Phone (480) 350-8500
Fax (480) 350-8591

UNION BARGAINING AGREEMENT

(IF APPLICABLE)

This form must be completed when the contractor provides union employee benefits, or takes union deductions, on behalf of their union employees working on a federally assisted construction project.

Name of Union _____ Local Number _____

Effective Dates of the Agreement _____ Through _____

Employer's Contribution to Benefits Per Union Agreement

Trade Classification	Contribution Amount	Type of Benefit	Hourly Contribution
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

Employee's Deduction Per Union Agreement

Trade Classification	Deduction Amount	Purpose of Deduction	Frequency (Hourly)
_____	\$ _____	_____	_____
_____	\$ _____	_____	_____
_____	\$ _____	_____	_____
_____	\$ _____	_____	_____

Provide attachment if additional space is needed.

**A COPY OF THE UNION AGREEMENT ALONG WITH CURRENT EMPLOYEE
BREAKDOWN AND PROOF OF PAYMENT MAY BE REQUESTED AT ANY TIME.**

City of Tempe
Engineering Division
Contract Administration
31 East 5th Street
Tempe, AZ 85281
Phone (480) 350-8500
Fax (480) 350-8591

**SUBCONTRACTOR INFORMATION
& CONSTRUCTION SCHEDULE**

<u>NAME</u>	<u>ADDRESS</u>	<u>TELEPHONE NUMBER</u>	<u>TYPE OF WORK TO BE PERFORMED</u>	<u>START DATE - END DATE</u>

City of Tempe
Engineering Division
Contract Administration
31 East 5th Street
Tempe, AZ 85281
Phone (480) 350-8500
Fax (480) 350-8591

TRANSPORTATION OF MATERIALS STATEMENT

(IF APPLICABLE)

This form must be completed by all contractors engaged in hauling materials “to” or “from” a federally assisted construction project.

All materials transported to or taken from the project need to be reported.

MATERIALS BEING TRANSPORTED “TO” THE PROJECT SITE			
Type of Materials	Source	Transporter	Destination
			Project Site
			Project Site
			Project Site

MATERIALS BEING TRANSPORTED “FROM” THE PROJECT SITE			
Type of Materials	Source	Transporter	Destination
	Project Site		
	Project Site		
	Project Site		

Provide attachment if additional space is needed.

The “Midway Decision” excludes the payment of prevailing wages for the hauling of materials “to” or “from” a federally assisted project, ONLY when the materials are being hauled “to” or “from” a commercial (non-dedicated) facility. If materials are being hauled “to” or “from” a dedicated facility or another federally assisted project, the employees (i.e. truck drivers, laborers) must be paid prevailing wages under the Davis Bacon Act.

Truck owners/operators are exempt from being paid the prevailing wages; however proof of vehicle ownership must be verified.

City of Tempe
Engineering Division
Contract Administration
31 East 5th Street
Tempe, AZ 85281
Phone (480) 350-8500
Fax (480) 350-8591



(For Contractor's Optional Use; See Instructions, Form WH-347 Inst.)

ADDRESS

OMB No.: 1215-0149
Expires: 03/31/2006

NAME OF CONTRACTOR <input type="checkbox"/> OR SUBCONTRACTOR <input type="checkbox"/>		ADDRESS		OMB No.: 1215-0145 Expires: 03/31/2006														
PAYROLL NO.		FOR WEEK ENDING		PROJECT AND LOCATION		PROJECT OR CONTRACT NO.												
(1) NAME, ADDRESS, AND SOCIAL SECURITY NUMBER OF EMPLOYEE	(2) NO. OF WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS					(9) NET WAGES PAID FOR WEEK
			HOURS WORKED EACH DAY										FICA	WITH- HOLDING TAX	OTHER	TOTAL DEDUCTIONS		
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We estimate that it will take an average of 56 minutes to complete this collection of information, including time for reviewing instructions searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection of information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, ESA, U. S. Department of Labor, Room S3502, 200 Constitution Avenue, N. W., Washington, D. C. 20210.

I, _____
(Name of Signatory Party)

(Title)

_____ on the _____
(Contractor or Subcontractor)
_____ ; that during the payroll period commencing on the _____
(Building or Work)

_____ (Contractor or Subcontractor) _____ from the full _____

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

☐ — in addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in Section 4(c) below.

THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.

TRUCK OWNER OPERATOR

(IF APPLICABLE)

This form must be completed to certify that the employee is the owner and operator of their own truck. Federal Labor Standards require that proof of ownership be verified for owner operators of trucks. The Department of Labor has an enforcement position with respect to bona fide owner operators of trucks who are independent contractors (an owner operator is a person who owns and drives a truck). Certified payroll including the names of such owner operators do not need to show the hours worked or the rates paid, only the notation "owner operator". This position does not apply to owner operators of other equipment such as bulldozers, backhoes, cranes, etc.

Owner Operator/Company _____ Phone Number _____

Address _____ City/State _____

Project name & number _____

Persons/company contracting with _____

Services to be performed _____

Subcontract amount _____

Federal Tax ID# _____

CERTIFICATION

I am the owner operator of my own truck and I will be the operator of the truck while performing the services described above. I am responsible for my own payroll taxes and benefits.

Truck type _____

Proof of ownership: Attach a copy of your current truck's registration or title to this form.

☐ Registration

☐ Title

I certify that to the best of my knowledge the information provided is correct.

Print Name _____

Signature _____

Date _____

City of Tempe
Engineering Division
Contract Administration
31 East 5th Street
Tempe, AZ 85281
Phone (480) 350-8500
Fax (480) 350-8591

WAGE DEDUCTION AUTHORIZATION FOR FEDERALLY ASSISTED PROJECTS

This form must accompany the first payroll report on which a deduction appears.

Project Name _____ Project Number _____

Contractor Name _____

Title 29, Part 3 of the Code of Federal Regulations provides for “anti-kickback” regulations as governed by the Copeland Act. The contractor shall comply with the requirements incorporated by reference in the project contract.

Payments for the benefit of employees, their families and dependents are permitted on federally assisted projects as long as the deduction is:

Not otherwise prohibited by law;

Voluntarily consented to by the employee, in writing, and in advance of the period in which the work is to be done; and

Such consent is not a condition either for the obtaining of, or the continuation of employment.

EMPLOYEE CONSENT TO WAGE DEDUCTION

I, _____, *authorize the deduction(s) listed below from my wages:*

Purpose of Deduction	Amount	Frequency (Hr/Wk/Mo)	Time Frame (From-To)
_____	\$ _____	_____	_____
_____	\$ _____	_____	_____
_____	\$ _____	_____	_____
_____	\$ _____	_____	_____

Employee Signature

Social Security Number

Date

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RESTITUTION CONFIRMATION

This form must be submitted to confirm payment of any restitution found to be due.

Project Name _____ Project Number _____

Contractor Name _____

Employee Name _____ Telephone Number _____

Address _____ City/State/Zip _____

Gross Amount	\$ _____	Check Number	_____
Taxes Deducted	\$ _____	Dated	_____
Net Amount	\$ _____	Issued By	_____
Dates of Infractions	_____		

Reason restitution is owed (i.e. misclassification, incorrect rate, overtime not paid, etc.)

_____ This payment represents **net wages** after taxes were deducted. I have received a breakdown showing my tax deductions.

_____ This payment represents **gross wages** and I understand that I am responsible for my own taxes on this amount.

I confirm that all information on this form is true and correct. I have received restitution in the amount stated and understand that my acceptance of this amount is final payment of restitution owed to me for labor services I performed on the above-identified project during the dates specified.

Employee Signature

Social Security Number

Date

Corporate Officer/Owner Signature

Title

Date

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FOR CONTACT ADMINISTRATION USE ONLY

_____ DBRA _____ CWHSSA